

In re Patent Application of
FLICK
Serial No. 10/085,403
Filed: FEBRUARY 28, 2002

REMARKS

Applicant thanks the Examiner for his careful and thorough examination of the present application.

Applicant has amended independent Claims 1 and 16 to more clearly define the claimed invention over the prior art. Applicant submits that all claims are patentable, and presents arguments and amendments herein supporting such patentability.

I. The Amended Claims

Amended independent Claim 1 is directed to a method of providing a customer-selected handheld remote control feature package in a vehicle. The method includes installing a universal remote control device in the vehicle. The universal remote control device comprises a controller and a wireless receiver cooperating therewith for permitting wireless enabling of the customer-selected handheld remote control feature package from among a plurality of possible handheld remote control feature packages. The method further includes negotiating sale or lease of the vehicle with the customer. The negotiating of sale comprises offering the plurality of possible handheld remote control feature packages to the customer, and accepting an order for the customer-selected handheld remote control feature package from the customer.

Claim 1 has been amended to recite the method further includes processing the order at a handheld remote control feature package processing station. Support for this amendment is found at page 12, lines 3-14 of the present application. The method also includes enabling wirelessly

from the handheld remote control feature package processing station the customer-selected handheld remote control feature package for the universal remote control device.

Amended independent Claim 16 is also directed to a method of providing a customer-selected remote control feature package in a vehicle similar to independent Claim 1, and has been similarly amended. Amended independent Claim 16 further recites that the plurality of possible handheld remote control feature package remote control feature packages have respective different offering prices, and that the steps can be performed by a plurality of different entities sharing revenue based on the negotiated customer-selected handheld remote control feature package remote control feature package. Independent Claim 27 is a system counterpart to independent method Claim 16.

II. The Amended Claims Are Patentable

The Examiner rejected independent Claims 1, 16, and 27 over the Treyz et al. patent. Treyz et al. discloses an automobile personal computer capable of monitoring and controlling certain local vehicle peripherals, such as, an LCD display, a CD drive, a fingerprint identification reader, a digital camera, and a GPS receiver. (Col. 13, lines 52-67 & Col. 15, lines 11-53).

Further, Treyz et al. discloses the ability to remotely subscribe to digital audio satellite radio services, (Col. 22, lines 20-34), and the separate ability to remotely purchase products separate from the car, (Col. 57, line 60 through Col. 58, line 10). Treyz et al. also discloses that

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the user may engage remote control features of the car in routine fashion, (Figure 44 & Col. 42, lines 26-37).

As correctly noted by the Examiner in the Official Action of February 8, 2010 (Official Action), Treyz et al. discloses that:

the automobile personal computer listens for wireless commands from key chain devices. In response to wireless commands sent from the wireless key chain device to automobile personal computer 14, automobile personal computer 14 may open the door locks on automobile 12, may start the engine of the automobile, may adjust the heat, and air conditioning, and may control the wipers, headlights, rear defogger, and any other suitable equipment in the automobile at step 356.
(Col. 23, lines 32-41).

Succinctly, this portion of Treyz et al. discloses controlling the automobile personal computer using a key chain fob. Moreover, Treyz et al. also states:

A web-based interface such as the interface of FIG. 15 may be used in various situations. As just one example, an automobile manufacturer may maintain a web site that the user may access from a personal computer in home 312. When the user logs on to the web site, the user may be provided with an opportunity to subscribe to a digital satellite service that is available from the automobile manufacturer. If the user opts to subscribe, an on-line transaction may be completed that signs the user up for the service. When the sign-up process is complete, configuration data that enables

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the automobile personal computer to obtain the new satellite service may be downloaded into automobile personal computer 14, the user may be provided with a code to provide to automobile personal computer 14 to activate the service, etc. (Col. 22, lines 20-34).

This portion of Treyz et al. discloses remote enabling of satellite radio. Nevertheless, Applicant submits there is a difference between wirelessly enabling the satellite radio, as disclosed by Treyz et al., and the claim feature of wirelessly enabling from the handheld remote control feature package processing station the customer-selected handheld remote control feature package for the universal remote control device, as recited by amended independent Claim 1, for example. The Examiner has contended that since Treyz et al. discloses remote enabling of satellite radio, and controlling the automobile personal computer using a key chain fob, Treyz et al. meets the above highlighted claim feature. Applicant submits that this is a mischaracterization of the claimed invention.

Moreover, in an alternative argument, the Examiner correctly notes that Treyz et al. fails to disclose wirelessly enabling the customer-selected handheld remote control feature package for the universal remote control device, as recited by amended independent Claim 1, for example. The Examiner contends that this deficiency of Treyz et al. is simply a measure of size

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and dimension and therefore obvious to the person of ordinary skill in the art.

Applicant submits that the Examiner has again mischaracterized the claimed invention. The term "handheld" in the claim recitation of the customer-selected handheld remote control feature package does not modify the remote control size but the type of feature package available. As noted by the Examiner, "handheld features" make "little sense" since you cannot hold them in a hand. (Official Action at 11). Applicant submits that the claims, in contrast, recite a customer-selected handheld remote control feature package. Accordingly, it is not the size of the remote control being modified, but the available features in the feature package.

Lastly, the Examiner's contention that Treyz et al. disclosing "remotely subscrib[ing] to digital satellite radio services AND the ability to remote order ... defeat[s]" Applicant's argument is erroneous. (Official Action at 11: Emphasis in Original). Applicant submits that the Examiner is modifying Treyz et al. improperly and without any rationale to selectively modify Treyz et al. as proposed.

Applicant notes that the Supreme Court of the United States has stated that:

[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to

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determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) ([R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness). *KSR v. Teleflex*, 550 U.S. 398 (2007) (Emphasis added)

In short, Applicant submits that the Examiner must provide some rationale why the person of ordinary skill in the art would take the remote subscription capability for satellite radio in Treyz et al. and expand it to the wireless key fob teachings.

Therefore, because of the aforementioned deficiencies of Treyz et al. and the aforementioned deficiencies of the Examiner's rejection, amended independent Claim 1 is patentable over the prior art. Amended independent Claim 16 and independent Claim 27 are similar to Claim 1 and are patentable for similar reasons. Their respective dependent claims, which recite yet further distinguishing features, are also patentable, and require no further discussion herein.

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CONCLUSIONS

In view of the amendments to the claims and the arguments presented above, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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